IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

WEDNESDAY, THE 5TH SEPTEMBER 2007 / 14TH BHADRA 1929

Crl.MC.No. 4697 of 2003()

C.C.NO.360/1992/LP.24/1999 of CHIEF JUDICIAL MAGISTRATE, KALPETTA,WAYANAD

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PETITIONER: 1ST ACCUSED

BAPPUTTY S/O.KUNHAMMAD, PEROOR,
KONARKADU, VYTHIRI TALUK.

BY ADV. SRI.SUNNY MATHEW

RESPONDENTS: COMPLAINANT

THE FOREST RANGE OFFICER, MEPPADY,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR, SRI C.K.SURESH

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 05/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.R.UDAYABHANU, J.

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Crl.M.C.No.4697 of 2003-B

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Dated this the 5th day of September, 2007

O R D E R

The petitioner, who is the first accused in C.C.No.360/1992/L.P No.24/1999 has sought for getting quashed the proceedings pending against him on the ground that the rest of the accused were tried and acquitted.

2. The prosecution case is that the accused on 24/01/1992 was found hunting in the forest area and killed a flying Squirrel by shooting.

3. I find that in view of the decision in **Moosa v.Sub Inspector of Police [2006(1) KLT 552(F.B)]**, the acquittal of the co-accused is not a ground to quash the proceedings. In the circumstances, the Crl.M.C is liable to be dismissed. The other accused stand acquitted on the ground that no sanction as contemplated under Section 55 of the Wild Life (Protection) Act has been obtained or authorisation produced. The Court has noted that the prosecution has failed to produce the notification to show that the Forest Range Officer is authorised to file the complaint. All the same,

as sought for by the counsel for the petitioner, the petitioner is directed to surrender before the court below. No pre-trial detention is required in the matter. The petitioner may apply for discharge before the court below. The Crl.M.C is disposed of accordingly.

K.R.UDAYABHANU,
Judge

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